

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN THE MATTER OF:

ANGEL L. MARTINEZ VIZCARRONDO

Debtor

CASE NO. 12-03046 MCF

CHAPTER 13

MOTION TO DISMISS

COMES NOW, SCOTIABANK DE PUERTO RICO represented by the undersigned attorney and respectfully sets forth and prays:

1. That the appearing creditor is the holder of a mortgage note in the principal balance amount of \$74,591.92, which encumbers debtor's residence.

2. That the Plan provides for debtor to continue making current post petition monthly payments to the appearing secured creditor.

3. That debtor has failed to comply with the proposed terms of the Plan and currently owe the appearing secured creditor the sum \$1,042.58 (1/14 – 2/14 + LC + LFees) in post petition arrears. See Exhibit "A" attached.

4. Pursuant to the provisions of section 1307 (c) (6) of the Code 11 USCS Section 1307 (c) (6), a party in interest may request the dismissal of a Chapter 13 bankruptcy petition whenever there is a material default by the debtor(s) with respect to a term of a confirmed plan.

5. The Courts have found cause for the dismissal of Chapter 13 bankruptcy case when the debtor(s) failed to make the payments directly to the creditor as called for under the terms of the confirmed Plan. See Estes v. Garcia, 42 Bankr. 33 (Bankr. D. Colo. 1984).

6. Included with this motion is a Verified Statement regarding the information required by this Servicemembers Civil Relief Act of 2003, and a Department of Defense Manpower Data Center Military Status Report.

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WHEREFORE the appearing secured creditor prays for an order dismissing the above captioned case.

NOTICE OF RESPONSE TIME

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

CERTIFICATE OF ELECTRONIC FILING AND SERVICE

I hereby certify that on this date copy of this motion has been electronically filed with the Clerk of the Court using the CM/ECF system which will sent notification of such filing to debtor(s) attorney and to JOSE R. CARRION MORALES, US Chapter 13 Trustee, and also certify that I have mailed by United State Postal Service copy of this motion to the following non CM/ECF participant to debtor(s) at theirs address of record in this case.

In San Juan, Puerto Rico, on the 20th day of February, 2014.

CARDONA JIMENEZ LAW OFFICE
Attorney for SCOTIABANK DE PUERTO RICO
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Tels: (787) 724-1303, Fax No. (787) 724-1369
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/s/José F. Cardona Jiménez, USDC PR 124504
jf@cardonalaw.com

0	MONTHS @	\$0.00	\$0.00 (3H)PER-DIEM INTEREST FACTOR	\$0.00
0	MONTHS @	\$0.00	\$0.00	
2	LATE CHARGES @	\$17.79	\$35.58 (3B)ACCURED INTEREST	\$0.00
(3C) FROM:		Jan-14	TO	Feb-14
SUBTOTAL				\$1,017.58
(3) ATTORNEYS FEES			\$0.00	
(3D)INSPECCTIONS			\$0.00	
(3D)RETURNED CHECK,TAXES, INSURANCE			\$0.00	
(3)OTHER CHARGES			\$25.00	
TOTAL :			\$1,042.58	
NOTE:				
All reinstallation payments must be made up to the current month, including legal fees and late charges.				
DUE DATE	8/1/2013	(3A) PRINCIPAL BALANCE	\$	74,591.92

EXHIBIT B

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Debtor

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VERIFIED STATEMENT

I, ALBA RIVERA, of legal age, married, Manager of the Legal Division and Bankruptcy Department at Scotiabank de Puerto Rico. and resident of Guaynabo, Puerto Rico, declare under penalty of perjury as follows:

That as to this date February 20, 2014, by a search and review of the records kept by SCOTIABANK DE PUERTO RICO in the regular course of business in regard to debtor account with this bank there is no information that will lead the undersign to belief that debtor is a regular service member either on active duty or under a call to active duty, in the National Guard or as a Commission Officer of the Public Health Services or the National Oceanic and Atmospheric Administration (NOAA) in active duty.

The bank has not received any written notice from debtor that his military status has change as to this date.

That as part of my search I examined the documents and records available to me within our computer system.

IN TESTIMONY WHEREOF I SIGN THESE PRESENTS under penalty of perjury, in San Juan, Puerto Rico this 20 day of February, 2014.

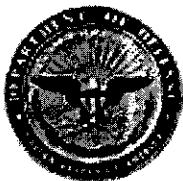


Alba Rivera

Department of Defense Manpower Data Center

Results as of : Feb-20-2014 10:27:38 AM

SCRA 3.0



Status Report
Pursuant to Servicemembers Civil Relief Act

Last Name: MARTINEZ

First Name: ANGEL

Middle Name:

Active Duty Status As Of: Feb-20-2014

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Mary M. Snavelly-Dixon

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
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Arlington, VA 22350